IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Mark J. Levine and John VanHandel
Serial No.	:	10/631,937
For	:	FABRICS WITH V-GUIDES
Filed	:	July 31, 2003
Examiner	:	Donald J. Loney
Art Unit	:	1772
Confirmation No.	:	9678

745 Fifth Avenue
New York, NY 10151

January 12, 2009

APPEAL BRIEF OF APPELLANT

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is an Appeal from the Final Rejection by the Examiner in the Final Office Action mailed July 10, 2008, which issued in the above-identified application, finally rejecting claims 1-13, and 15-23, and from the Pre-Appeal Brief Conference Decision dated November 17, 2008 confirming the rejections. A Notice of Appeal was filed on October 14, 2008. The period for response to Pre-Appeal Brief Conference Decision was set for December 17, 2008 and extendable under 37 CFR 1.136 based upon the mail date of the Decision. This Brief is submitted in accordance with 37 C.F.R. § 41.37 and is accompanied by the requisite fee of $540.00 as set forth in 37 C.F.R. § 41.20. Please charge any additional fees required for the

Notice of Appeal or otherwise occasioned by this paper or credit any overpayments to Deposit Account No. 50-0320.

REAL PARTY IN INTEREST

The real party in interest is Albany International Corp., 1373 Broadway, Albany, NY 12204, to which Appellant has assigned all interest in this application by virtue of assignments recorded on March 14, 2004 found at Reel 015101, Frame 0926 of the assignment records of the Patent and Trademark Office.

RELATED APPEALS AND INTERFERENCES

Upon information and belief, the undersigned attorney does not believe that there is any appeal or interference that will directly affect, be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF THE CLAIMS

The Application was filed with claims 1-23 on July 31, 2003, and assigned Application Serial No. 10/631,937.

The Examiner issued an Office Action on December 17, 2004. In the Office Action, the Examiner objected to claims 3 and 18 for informalities. Claims 22-23 were rejected under 35 U.S.C. § 112, second paragraph. The Examiner rejected claims 1-5, 9-13 and 16-17 under 35 U.S.C. § 102(b) over U.S. Patent No. 5,302,251 to Schiel ("Schiel"). The Examiner also rejected claims 1-23 under 35 U.S.C. § 102(b) over U.S. Patent No. 4,559,258 to Kiuchi ("Kiuchi"). The Examiner also rejected claims 1-2 and 5-23 under 35 U.S.C.§ 102(b) over U.S. Patent No. 4,559,258 to Nagura et al. ("Nagura").

In response to the Office Action Appellants submitted an amendment on March 15, 2005, in which claims 3 and 18 were amended to address the objections. The Appellants traversed and argued the rejections.

The Examiner then issued a Final Office Action on June 28, 2005. The Examiner rejected claims 1-21, but objected to claims 22-23 as being dependent on a base claim but otherwise allowable. The Examiner rejected claims 1-5, 9-13 and 16 under 35 U.S.C. § 102(b) over Schiel. The Examiner also rejected claims 1-16 and 18-21 under 35 U.S.C. § 102(b) over Kiuchi. The Examiner also rejected claims 1-2 and 5-21 under 35 U.S.C. § 102(b) over Nagura.

A response to the Final Office Action was filed by Appellants on September 21, 2005 traversing the Examiner's rejections of the claims. The Appellants amended claim 1 and traversed and argued the rejections.

The Examiner issued an Advisory Action on October 11, 2005, maintaining the rejections recited in the Final Office Action.

A Request for Continued Examination was filed by Appellant on October 17, 2005.

The Examiner issued an Office Action on January 3, 2006. In the Office Action, the Examiner objected to claims 22-23 as being dependent on a base claim but otherwise allowable. The Examiner rejected claims 1-13 and 16-21over Nagura under 35 U.S.C. § 102(b). The Examiner rejected claims 1-13 and 16-17 under 35 U.S.C. § 102(b) over U.S. Patent No. 3,523,867 to MacBean ("MacBean") or U.S. Patent No. 5,422,166 to Fleischer ("Fleischer"). The Examiner also rejected claims 14-15 and 18-21 under 35 U.S.C. § 103 over MacBean or Fleischer in view of U.S. Patent No. 5,558,926 to Tate ("Tate"). Claims 1-21 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,008,801 to Reilly et al. ("Reilly").

A response to the Office Action was filed by Appellants on April 3, 2006, traversing and arguing the Examiner's rejections of the claims.

On June 15, 2006 the Examiner issued a Final Office Action maintaining the rejections.

A Notice of Appeal and a Pre-Appeal Brief Request for Review and Pre-Appeal Brief was filed by Appellant on August 15, 2006.

A Notice of Panel Decision from the Pre-Appeal Brief Review issued on September 28, 2006 maintaining the rejections of claims 1-21 and allowance claims 22-23.

An Amendment after the Notice of Appeal was filed Appellants on October 30, 2006. The Amendment amended claim 1 and traversed and argued the rejections.

On November 20, 2006 the Examiner issued an Advisory Action maintaining the rejections recited in the Final Office Action.

A Request for Continued Examination and Amendment was filed by Appellant on November 27, 2006. The Amendment amended claim 1 and traversed and argued the rejections.

On February 27, 2007 the Examiner issued an Office Action. In the Office Action, the Examiner rejected claims 1-13 and 16-21over Nagura under 35 U.S.C. § 102(b). The Examiner rejected claims 1-13 and 16-17 under 35 U.S.C. § 102(b) over any of U.S. Patent No. 2,659,958 to Johnson ("Johnson"), U.S. Patent No. 2,718,791 to Hose et al. ("Hose"), MacBean, or Fleischer. The Examiner also rejected claims 14-15 and 18-21 under 35 U.S.C. § 103 over MacBean or Fleischer in view of Tate. Claims 1-21 were rejected under 35 U.S.C. §103(a) over Reilly. Claims 22 and 23 were rejected over Nagura in view of GB 2106557 to Curry et al. ("Curry"). Claims 22 and 23 were rejected over MacBean or Fleischer in view of Tate and Curry. Claims 22 and 23 were rejected over Reilly in view of Curry.

A response to the Office Action was filed by Appellants on May 29, 2007 traversing the Examiner's rejections of the claims. The Appellants amended claims 1 and 15, cancelled claim 14, and traversed and argued the rejections.

On September 7, 2007 the Examiner issued a Final Office Action. In the Office Action, the Examiner withdrew all the rejections under 35 U.S.C. § 102(b). The Examiner rejected claims 1-13, 15 and 18-21 under 35 U.S.C. § 103 over MacBean or Fleischer in view of Tate. Claims 1-13 and 15-21 remained rejected under 35 U.S.C. §103(a) over Reilly. The rejection of claims 22 and 23 were over Nagura in view of Curry was withdrawn. Claims 22 and 23 remained rejected over MacBean or Fleischer in view of Tate and Curry. Claims 22 and 23 also remained rejected over Reilly in view of Curry.

A Request for Continued Examination and Amendment was filed by Appellant on October 30, 2007. The Amendment cancelled claim 18, amended claims 1, 19-20 and 22 and traversed and argued the rejections.

On January 10, 2008 the Examiner issued an Office Action. In the Office Action, the Examiner withdrew the previous rejections under 35 U.S.C. §103(a) over Reilly. Claims 1-13, 15-17 and 19-21 were rejected under 35 U.S.C. §103(a) over Tate in view of Kiuchi. Claims 1-13 and 15-21 were rejected under 35 U.S.C. §103(a) over Reilly in view of Kiuchi, and claims 22-23 were rejected under 35 U.S.C. §103(a) as being over "Tate or Reilly as applied to claims 1-13, 15-17, and 19-21 above" in view of Curry; the Examiner did not cite to Kiuchi.

On April 10, 2008 the Appellants filed a Response traversing and arguing the rejections.

On July 10, 2008 the Examiner issued a Final Office Action (hereafter referred to as "the Final Office Action") maintaining all the rejections in the previous Office Action.

A response to the Final Office Action was filed by Appellants on Septenber 10, 2008 traversing and arguing the Examiner's rejections of the claims.

The Examiner issued an Advisory Action on September 25, 2008 maintaining the rejections recited in the Final Office Action.

Appellants filed a Notice of Appeal and a Pre-Appeal Brief Request for Review and Pre-Appeal Brief on October 14, 2008.

A Notice of Panel Decision from the Pre-Appeal Brief Review issued on November 17, 2008 maintaining the rejections of claims 1-13 and 15-23.

Accordingly, the status of the claims may be summarized as follows:

Claims allowed: None

Claims Objected to: None

Claims Rejected: 1-13, 15-17 and 19-23

Claims Appealed: 1-13, 15-17 and 19-23

Claims Withdrawn: None

Claims Canceled: 14 and 18

STATUS OF THE AMENDMENTS

Appellants believe that all the submitted Amendments have been entered.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The citations to Figures and Specification locations are provided immediately following elements of independent claim 1, which is summarized below. Citations are made to the publication of the present application, U.S. Patent Publication No. 2005/0025935 A1. However, such citations are provided merely as examples and are not intended to limit the interpretation of the claims or to evidence or create any estoppel.

Claim 1 is directed to a fabric (FIG. 1, ref. 10, [0032]) having a fabric caliper (FIG. 2, ref. 22, [0036]) said fabric having a top surface coating (FIG. 2, ref. 16, [0036]) that encapsulates fifty percent or less (FIG. 2, ref. 16, [0036]) of the fabric caliper and comprising one or more guides (FIG. 1, ref. 14, [0032]) attached to machine direction edges of a wear surface (FIG. 2, ref. 26, [0036]) of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper (FIG. 1, ref. 14, [0035]) with guide material (FIG. 2, ref. 14, [0036]) in a region where the guide is attached to the fabric, wherein the guides are substantially v-shaped (FIG. 3, [0038]).

GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-13, 15-17 and 19-21 are patentable under 35 U.S.C. §103(a) over Tate in view of Kiuchi.

Whether claims 1-13, 15-17 and 19-21 are patentable under 35 U.S.C. §103(a) over Reilly in view of Kiuchi.

Whether claims 22-23 are patenable under 35 U.S.C. §103(a) as being over Tate or Reilly in view of Curry.

ARGUMENTS

I. THE REJECTIONS UNDER 35 U.S.C. 103 SHOULD BE WITHDRAWN

Claims 1-13, 15-17 and 19-21 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,558,926 to Tate et al. ("Tate") in view of U.S. Patent No. 4,559,258 to Kiuchi ("Kiuchi"). Claims 1-13, 15-17 and 19-21 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,008,801 to Reilly et al. ("Reilly") in view of Kiuchi, and claims 22-23 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Tate or Reilly in view of GB 2106557 to Curry et al. ("Curry"). Appellants traverse and respectfully request reconsideration and withdrawal of the rejections thereto.

a. The Examiner Erred in Rejecting Independent Claim 1, the Sole Independent Claim under §103(a) over Tate in view Kiuchi

Independent claim 1 recites:

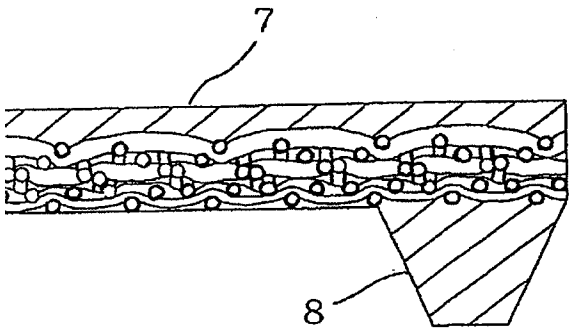
> A fabric having a fabric caliper, **said fabric having a top surface coating that encapsulates fifty percent or less of the fabric caliper and said fabric comprising one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper** with guide material in a region where the guide is attached to the fabric, wherein the guides are substantially v-shaped. (Emphasis added)

Accordingly, the claim recites a fabric having a top surface coating that encapsulates fifty percent or less of the fabric caliper and comprising one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper.

i. Tate's encapsulation percentages are contrary to those of claim 1

Tate discloses an endless multilayer fabric with a bending resistant part placed on a trimming part of the fabric to prevent cutting. A bending resistant part is formed by filling a polyurethane resin in internal structure of the endless fabric. A guide protrusion molded from similar polyurethane is arranged on the bending resistant part by fusion. Figure 3 of Tate is shown below:

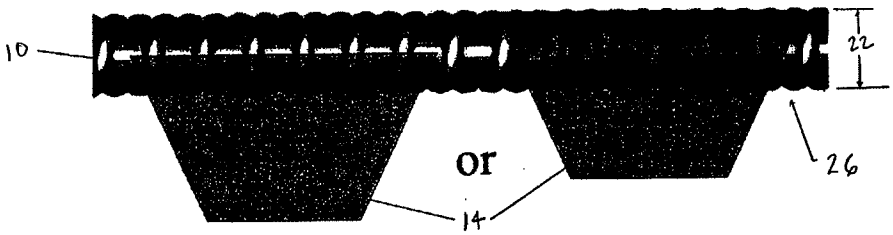
FIG. 3



Tate, specifically, discloses that the amount of the polyurethane to be filled in the bending resistant part is preferably not less than 85% of the fabric space located in the edge area. As Tate says: "[the] bending resistant part...is formed by filling **not less than 85% percent of the space of the fabric** with a thermoset resin...." *Tate*, col. 3, lns. 10-13. Tate's reason is that:

"[t]he amount less than 85% tends not to result in enough bending resistant effect and satisfactory fusion to the guide protrusion." *Id.*, col. 4, lns. 42-44.

The claimed belt has increased resistance to tearing because of the 50% or more encapsulation of the guides. See, inter alia, the abstract and [0032]-[0033] and Figures 1 and 2 of the present application (e.g., Figure 1):



Machine direction view of v-guides with ranging from 50% to 100% encapsulation on a permeable spiral structure (red = v-guide).

FIGURE 1

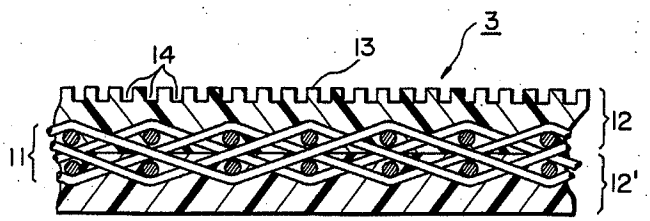
On the other hand, in Tate, when the fabric structure is filled with the resin layer applied to the face side of the fabric to 85% of it's thickness, that only leaves 15% of the structure to adequately bond the guide. *Tate*, col. 4, lines 40-51.

The claim addresses this shortcoming of Tate, which is why the face side resin layer penetrates the structure less, and the actual guide itself, when formed on the backside or driveside of the belt, penetrates further into the base structure by a factor of at least three when compared to Tate. It is the guide member penetration into the fabric which improves the guide's resistance to tearing off, and **not** the face side resin layer.

ii. Kiuchi fails to disclose guides or encapsulation percentages thereof

As to Kiuchi, at page 3 of the Final Office Action, the Examiner asserts that coatings 12 and 12' shown in Fig. 2 of Kiuchi encapsulate half (50%) of the fabric 11. While this is not true, even if it were, Kiuchi would still fail to cure Tate's deficiency. Figure 2 is shown below:

FIG. 2



Kiuchi discloses a shoe press belt, which is entirely impregnated with resin through its entire thickness (and above the base plane). If the thickness of the first layer impregnates the entire base, then the subsequent resin layers will not have any exposed base fabric to attach to. It is to be noted, that in almost all nonreactive systems used for shoe press belts, and certainly, those used in 1985, the attachment of resin to the base was purely mechanical.

As Appellants explained as early as the Amendment of March 15, 2005, Kuichi teaches the formation of projections 13, coupled with channels 14 for dewatering. **The channels and projections are not guides.** Guides fit into a peripheral groove in each of the rolls. See page 2, lns. 14-15 of the present application. Kuichi's channels and projections are not and cannot act as guides.

Moreover Kiuchi does not teach what the Examiner alleges in the Final Office Action. Kiuchi says nothing about the percentage of encapsulation or penetration of its coatings. As explained above, it is unlikely that Kiuchi's layers 12 and 12' in Figure 2 are approximately equal to one another. As Kiuchi is silent on percentages and does not regard such percentages as meaningful, Figure 2's image is not intended as a depiction of the penetration of the coatings. Indeed, Figure 2 is not presented as a specific embodiment, but as a sectional view of Kiuchi's entire invention (See *Kiuchi* at col. 2. lines 36-38 and 46-47.)

Example 2 of Kiuchi is also deficient as it does not, as the Examiner alleges, disclose the coating on each side of the fabric reaches approximately 50% inside the fabric. Rather, Kiuchi simply states: "At this time the polyurethane resin is impregnated into the base fabric so that it reaches **approximately the inside.**" *Kiuchi*, col. 6, lns 10-12, emphasis added. Nothing more. Kiuchi is again silent on percentages.

Finally, the relied upon portions of Kiuchi disclose that "layers of synthetic resin 12, 12' are formed on both inside and outside surfaces of an endless base fabric 11, and a number of drain channels 14 are then provided over the entire surface of a belt with which felt comes into contact." **Kucihi does not provide for any percentages whatsoever.** In short, Kuichi does not disclose guides and is not at all concerned with guides, and does not have any regard for the percentages of its coatings. Thus there is no reason, nor has the Examiner shown any reason, either gleaned from the references or the knowledge of an ordinarily skilled artisan, for one skilled in the art to combine the teachings of Tate with Kiuchi, because Kiuchi **does not** disclose guides or any percentage encapsulation. Therefore, Appellants respectfully submit that Kiuchi does not, even in combination with Tate, disclose that **the coatings encapsulate 50% or more of the fabric with guide material.**

Appellants submit that none of the cited references, considered either alone or in combination, properly combine to disclose or render predictable the above identified recitation of claim 1. Specifically, neither Tate nor Kiuchi, considered either alone or in combination, disclose or render obvious, a fabric having **a top surface coating that encapsulates fifty percent or less of the fabric caliper** and **said fabric comprising one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper** with guide material in a region

where the guide is attached to the fabric, wherein the guides are substantially v-shaped, as claimed in independent claim 1.

For at least the foregoing reasons, Appellants submit that claim 1 is patentable over the combination of Tate and Kiuchi.

iii. Kiuchi, even if percentages were taught, still fails to cure Tate's deficiency

At page 5, the Final Office Action responded to the Appellants' arguments by repeating the allegation that Figure 2 of Kiuchi shows that "coatings on both sides of a belt are known to encapsulate approximately 50 percent of the fabric." The Examiner further alleges that Example 2 of Kiuchi teaches that the coating on each side of the "fabric reaches approximately inside the fabric (i.e., approximately 50% thereof)." Yet, as explained above, none of the Examiner's assertions find adequate support in Kiuchi. Yet even assuming purely for the sake of argument that the assertions are true, which they are not, Kiuchi would still fail to cure Tate's deficiency.

In the Final Office Action, the Examiner fails to address Appellants' remarks that the claimed belt requires 50% or more encapsulation of the fabric caliper by **the guides**. Tate, in stark contrast, unambiguously states that its "bending resistant part…is formed by filling **not less than 85% percent of the space of the fabric** with a thermoset resin…." *Tate*, col. 3, lns. 10-13. Tate's reason is that: "[t]he amount less than 85% tends not to result in enough bending resistant effect and satisfactory fusion to the guide protrusion." *Id.*, col. 4, lns. 42-44. As explained above, when the fabric structure is filled with the resin layer applied to the face side of the fabric to 85% or more of its thickness, **that only leaves – at best -- 15% of the structure to adequately bond the guide.** See *Tate* at, col. 4, lines 40-51. Claim 1, on the other hand, requires "**one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper**." Thus Tate is clearly deficient. As Kiuchi teaches no guides whatosever, it fails to cure Tate's

deficiency, regardless of the percentages of penetration and encapsulation Kiuchi allegedly discloses. Among other things, Tate's construction forecloses any overlap or closeness for the claimed range.

iv. Tate unambiguously teaches away from the Examiner's alleged combination with Kiuchi

While the Examiner has thus failed to make a *prima facie* case of obviousness against claim 1, Appellants note that Tate also teaches away from the Examiner's alleged combination. At page 3 of the Final Office Action, the Examiner alleges the reason for combining Tate with Kiuchi is "in order to securely and positively attach [the guide] thereto and the deeper into the fabric the material flows the greater that bond would be since the material would be able to attach to more of the fabric." Yet Tate says: "...a guide protrusion is fastened **to the bending resistant part** by fusion. This fusion provides good guiding characteristic **since the fabric is firmly bound**." *Tate*, col. 4, lns. 21-23, emphasis added. Tate goes on to state:

> Polyurethane resin is used in the fabrication of the protrusion body and the trimming edge because the wear resistance is excellent, **the bond formed is good**, and the flexibility is sufficient so that the turning at the inner roll is excellent.

Tate, col. 4, lns. 52-55, emphasis added. Tate fails to regard secure attachment of the guide as a problem, and indeed, regards its guide as firmly bound, albeit to the bending resistant part and not the fabric. Taken together with Tate's warning that less than 85% penetration of the face side resin layer does not "result in enough bending resistant effect and satisfactory fusion to the guide protrusion," Tate clearly undermines the Examiner's alleged reason for the combination, and indeed expressly teaches away from it. As the Supreme Court said in *KSR International Code v. Teleflex, Inc.*, 550 U.S. ____, 82 USPQ2d at 1394 (2007) (citing *U.S. V. Adams*, 383

U.S. 39, 40): "[W]hen the prior art teaches away from combining certain known elements, discovery of successful means of combining them is more likely to be non-obvious."

As explained above, claim 1, inter alia, addresses the above-noted shortcoming of Tate, which is why the face side resin layer penetrates the structure less, and the actual guide itself, when formed on the backside or driveside of the belt, penetrates further into the base structure by a factor of at least three when compared to Tate. The guide member's penetration into the fabric, **as opposed to the face side of the resin layer as taught by Tate**, improves the belt's resistance to tearing off.

v. Conclusion

For the reasons amply set forth throughout prosecution and above, claim 1 is patentable over Tate and Kiuchi under § 103.

b. The Examiner Erred in Rejecting Independent Claim 1, the Sole Independent Claim under §103(a) over Reilly in view Kiuchi

Claims 1-13, 15-17 and 19-21 are rejected under §103(a) over Reilly in view of Kiuchi. At page 4 of the Final Office Action, the Examiner incorrectly alleges that Reilly teaches the guide being "molded into the interstices of the fabric." As shown below, complete analysis of the reference and particularly the portion cited by the Examiner reveals that the fabric portion of Reilly refers to is a fabric backing 32 which is applied to the base web 31 during molding. This fabric backing is **not** the fabric of the conveyor belt 16, but an additional fabric used in **assembly** of the belt. (Reilly, col. 3, lines 27-43) The base web 31 having the fabric backing 32 is then adhered to the belt 18 using a glue or adhesive and not through encapsulation. (Reilly, col. 5, lines 3-8).

Reilly relates to a conveyor belt guide comprising a plurality of guide sections, each including an integral polyurethane elongated rib and base web having a width substantially

greater than the rib at its juncture with the web. Reilly, specifically, discloses that **portions of the polyurethane are molded into the interstices of the fabric backing (32) so that the backing is securely and positively attached to the polyurethane**. *Reilly*, col. 3, lines 27-42. Thus the molding into interstices of the fabric that the Examiner refers to is between the polyurethane and the fabric backing 32 and **not** between the guides 21 and the conveyer belt 16. *Id.*, Figs. 1-4.

Therefore, contrary to the Examiner's suggestion, there is no disclosure of the above identified features in Reilly either.

Furthermore, in Reilly, the guide itself is cast in one piece, and the base (web) contains an impregnated fabric backing. This backing is what is used to improve adherence of the guide to the belt, the guide being **adhesively** attached to the belt surface (col. 4, lines 56-59). Therefore, Appellants submit that Reilly teaches away from the instant invention, and for at least this reason, the teachings of Reilly cannot be combined with Kiuchi to derive the claimed invention.

Indeed, none of the references, considered either alone or in combination, teach or suggest **that the guide material itself penetrates into the belt surface.** Specifically, none of Reilly and Kiuchi, considered either alone or in combination disclose or suggest, a fabric having **a top surface coating that encapsulates fifty percent or less of the fabric caliper and said fabric comprising one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper** with guide material in a region where the guide is attached to the fabric, wherein the guides are substantially v-shaped, as claimed in independent claim 1.

For at least the foregoing reasons, Appellants submit that claim 1 is patentable over the combination of Reilly and Kiuchi.

In response to the arguments above, page 6 of the Final Office Action alleges Appellants argue: "that the molding into the interstices of the fabric in Reilly et al is between the polyurethane and the fabric and not between the guide and the fabric." The Examiner then answered that "the polyurethane and guide the applicant is referring to are one integral part (col. 3 lines 30 and 31), therefore the guide does penetrate the fabric." The Examiner misunderstands Appellants' argument and the Reilly reference. As Appellants explained above (and in the response prior to the Final Office Action), Reilly discloses a guide formed by molding polyurethene into interstices of a fabric backing, and then the guide -- which includes the fabric backing -- is subsequently adhered to a conveyor belt. The molding is between the polyurethane and the fabric backing 32 and **not** between the guides 21 and the conveyer belt 16. *Reilly.*, Figs. 1-4.

Indeed, the Office Action's citation explains that Reilly's guide includes rib and a base web that are molded as an integrated piece. But these are part of Reilly's guide, not the conveyor belt. Moreover, Reilly's fabric backing is applied to the side of the base web. The fabric backing is also part of the guide, not the belt. As Reilly explains:

> It is important that the fabric be securely held to the polyurethane by this method since the fabric provides the adhesive interface with the conveyor belt as will be noted.... In use the guide can be secured to the conveyor belt for use by any appropriate adhesive....

Reilly, col. 3 lns 39-42, col. 4, lns. 56-59. Reilly's guide is **adhered** to Reilly's conveyor belt via the guide's fabric backing, thus the guide material **is never impregnated** into Reilly's belt, hence never encapsulating it. Thus Examiner improperly "deems the material flowing into the interstices as encapsulating the fabric caliper...." Final Office Action, page 4.

To the contrary, Reilly teaches casting the guide in one piece with the base (web) containing an impregnated fabric backing. Reilly expressly teaches improving adherence of the guide to the belt surface via **adhesive** (*Reilly*, col. 4, lines 56-59), not encapsulation of the fabric caliper. Therefore, Reilly both fails to disclose and teaches away from "guides attached...**so as to encapsulate** approximately fifty percent or more of **the fabric caliper with guide material in a region where the guide is attached**," and for at least this reason, the teachings of Reilly cannot and do not combine with Kiuchi to render obvious claim 1.

Appellants also note that the reason given by the Examiner in the Final Office Action for the combination is the same as that given above with respect to Kiuchi, namely, adjusting the depth of the coating for a more secure attachment. The reason does not make sense as Reilly's guide is adhered to the belt, not impregnated. Moreover, Kiuchi itself is deficient as a reference for all the reasons given above in the discussion of the §103 rejection over Tate and Reilly.

For the reasons given above and throughout prosecution, Appellants urge that claim 1 is patentable over Reilly and Kiuchi under § 103.

II. DEPENDENT CLAIMS

Claims 22-23 were further rejected under §103(a) over Tate or Reilly in view of Curry. As for Curry, while the reference is not a basis for rejection of the independent claim, Appellants note that the mere disclosure of controlling a degree of penetration does not cure Tate's deficiency and teaching away or Kiuchi's (which the Examiner failed to cite) lack of disclosure of percentages. Moreover, as pointed out in the prior Response, Curry discloses an impermeable shoe press belt that is impregnated over its entire surface with a resin coating. As is well known to those skilled in the art, not only is Curry's belt used only in papermaking, but while in use, it never contacts the paper product, thus always being on the inside of a press

fabric, and therefore it **does not** require any V-guides. Appellants submit that this impermeable belt would **not** be able to function in the above-claimed manner.

The dependent claims in this application are each dependent from independent claim 1 discussed above and are therefore believed patentable for the same reasons.

CONCLUSION

For the reasons discussed above, claims 1-13 and 15-23 are patentable. It is, therefore, respectfully submitted that the Examiner erred in rejecting claims 1-13 and 15-23 and Appellants request a reversal of these rejections by this Honorable Board. As a result, the allowance of this application should be mandated.

Respectfully submitted,

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APPENDIX I

CLAIMS ON APPEAL

What is claimed is:

1. (Previously Presented) A fabric having a fabric caliper, said fabric having a top surface coating that encapsulates fifty percent or less of the fabric caliper and said fabric comprising one or more guides attached to machine direction edges of a wear surface of the fabric so as to encapsulate approximately fifty percent or more of the fabric caliper with guide material in a region where the guide is attached to the fabric, wherein the guides are substantially v-shaped.

2. (Original) A fabric in accordance with claim 1, wherein said encapsulation is the primary mechanism that attaches the fabric and guide.

3. (Previously Presented) A fabric in accordance with claim 1, wherein the guide is attached to the fabric by melting of the guide, to a sufficient depth, to encapsulate fifty percent or more of the fabric structure.

4. (Original) A fabric in accordance with claim 3, wherein the melted guide encapsulates the fabric so to create a composite upon solidification.

5. (Original) A fabric in accordance with claim 1, wherein a bond strength between the fabric and the guide is equal to the tear strength of either the fabric or the guide material alone.

6. (Original) A fabric in accordance with claim 1, wherein the fabric is of a construction taken from the group consisting essentially of woven, or nonwoven, such as spiral-link, MD or CD yarn arrays, knitted, extruded mesh, or material strips which are ultimately spiral wound to form a substrate having a width greater than a width of the strips.

7. (Original) A fabric in accordance with claim 1, wherein the fabric is permeable or impermeable.

8. (Original) A fabric in accordance with claim 1, wherein the fabric comprises metal, synthetic, or natural filaments, fibers or yarns.

9. (Original) A fabric in accordance with claim 1, wherein the guide is one of meltable thermoplastic, extrudable thermoplastic, or a thermoset.

10. (Original) A fabric in accordance with claim 9, wherein crosslinking of the thermoset is achieved by at least one of room temperature, UV, moisture, or heat.

11. (Original) A fabric in accordance with claim 1, wherein the guide is a cross-linkable polymer with sufficient viscosity to maintain its shape during a curing process.

12. (Original) A fabric in accordance with claim 11, wherein crosslinking is achieved by at least one of room temperature, UV, moisture, or heat.

13. (Original) A fabric in accordance with claim 1, wherein the guide is meltable thermoplastic impregnated into the fabric under pressure while using a shaped pulley to maintain guide dimensions.

14. (Cancelled)

15. (Previously Presented) A fabric in accordance with claim 1, wherein the v-guide has one of a flat, hi-ridged and ribbed top.

16. (Original) A fabric in accordance with claim 1, wherein said fabric with attached guides is used as a belt in industrial applications.

17. (Original) A fabric in accordance with claim 1, wherein said fabric comprises two guides at respective edges of the fabric.

18. (Cancelled)

19. (Previously Presented) A fabric in accordance with claim 1, wherein a coating thickness above a surface plane of the fabric is in the range of 0 to 4 mm.

20. (Previously Presented) A fabric in accordance with claim 1, wherein the coating comprises one of polyurethane, polyvinyl chloride, silicone rubber, and synthetic rubber.

21. (Original) A fabric in accordance with claim 20, wherein said synthetic rubber is one of nitrile and styrene butadiene rubber.

22. (Previously Presented) A fabric in accordance with claim 1, wherein stuffers are used to control the depth of penetration of the coating.

23. (Original) A fabric in accordance with claim 22, wherein said stuffers are rectangular.

APPENDIX II

EVIDENCE

None

APPENDIX III

RELATED PROCEEDINGS

None